

REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this submission.

Disposition of Claims

Claims 1-12 were pending in this application. Claim 10 has been cancelled without prejudice or disclaimer by way of this submission. Claims 13-21 have been added by way of this submission and are also currently pending. Claims 1, 9, and 17 are independent. The remaining claims depend, directly or indirectly, from independent claims 1, 9, and 17.

Claim Amendments

Claims 13-21 have been added by way of this submission and are currently pending in this application. Applicants respectfully assert that no new matter has been introduced by way of the newly-added claims. Support for the new claims may be found in, for example, paragraphs [0032], [0035], [0041], [0053], [0071], and [0072] of the patent application publication and the originally-filed claims.

Rejections under 35 U.S.C. § 103

MPEP § 2143 states that “[t]he key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” Further, the Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1739, 75 U.S.L.W. 4289 (2007) noted that the analysis supporting a rejection under 35 U.S.C. § 103 should be made

explicit. *See* MPEP § 2143. The analysis presented by the Examiner to support the rejection of the claims under 35 U.S.C. § 103 in the Action indicates that the Examiner found no differences between the cited prior art and the claims besides a lack of the actual combination of the elements in a single prior art reference, *i.e.*, that the Examiner is relying solely on the teachings of the prior art. *See, e.g.*, MPEP § 2143(A). Applicants respectfully assert that all of the elements of the amended claims are not found in the cited prior art.

Claims 1, 2, 6, 9, and 10

Claims 1, 2, 6, 9, and 10 were rejected under 35 U.S.C. § 103 as being unpatentable over WO 02/47365 A2 (“Andreaux”) in view of U.S. Patent Application Publication No. 2002/0048369 (“Ginter”). At the outset, claim 10 has been cancelled without prejudice or disclaimer by way of this submission and is therefore no longer pending. Accordingly, the rejection is moot with regards to claim 10 and withdrawal of the rejection as pertaining to claim 10 is respectfully requested. To the extent that this rejection applies to the pending claims, the rejection is respectfully traversed.

Under the requirements of *In re Wilson*, “all words in a claim must be considered in judging the patentability of that claim against the prior art.” *See* MPEP 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970)). Independent claim 1 recites, in part, “said service comprising a plurality of *encrypted* data flow, the use of said service comprising successive *decryption steps of data flow* by a respective first key.” As such, the decryption step of independent claim 1 plainly contemplates the decryption of encrypted data flow. Independent claim 1 further recites, in part, “a counting step, in which a memory location stores *a count of occurrences of decryption steps* of said first key attached to a same service.” In view of *In re Wilson*, the counting

step recited by independent claim 1 clearly requires a count of how many times an encrypted data flow has been decrypted.

Turning to the rejection, the Examiner relies upon Andreaux to disclose or render obvious the limitation of the counting step. Specifically, the Examiner cites to a counter that is decremented each time a key is sent from a source entity to a receiver entity. *See* page 4 of Final OA (citing Andreaux: page 8 lines 12-15). However, Applicant asserts Andreaux's use of key to perform a decryption ultimately depends on whether the receiver entity is able to properly authenticate the source entity. *See* Andreaux: page 6 line 20 – page 7 line 15. For example, because key transfer and source authentication are independent (*see, e.g.,* Andreaux: page 6 lines 17-23), a key may be sent by the source to the receiver (*i.e.,* resulting in a decrementing of the counter) but the receiver may not be able to successfully authenticate the source. Further, because source authentication is unsuccessful, the receiver does not perform the decryption step using the received key. Accordingly, the counter, which merely tracks the number of times a key has been sent, cannot necessarily serve as a reliable (*i.e.,* accurate) indicator for the number of times a decryption is performed using the key¹. For at least that reason, Applicant asserts that Andreaux cannot be properly construed to disclose or render obvious the counting step of independent claim 1.

Further, Ginter does not disclose or otherwise provide that which Ginter lacks. Ginter is directed to a content management system. *See* Ginter: Abstract. While Ginter does contemplate the encryption and decryption of content (*see, e.g.,* Ginter's paragraphs [0504] and [0524]-[0526]),

¹ Applicants note a second scenario where Andreaux's counter would fail to provide an accurate count for the number of times a decryption is performed: the use case where the receiving entity receives the key but is subsequently powered down or deactivated before performing the decryption operation. As with the unsuccessful source authentication use case, the counter is decremented when the key is received yet before decryption is performed and, as such, is an unreliable indicator.

Ginter is silent as to “a counting step, in which a memory location stores a count of occurrences of decryption steps of said first key attached to a same service.” Specifically, Ginter does not contemplate storing a count of occurrences of decryption steps in relation to a particular key and a particular service.

In view of the above, Andreaux and Ginter do not disclose or otherwise provide all the limitations recited by independent claim 1. Specifically, Andreaux and Ginter do not disclose or render obvious the limitation of the counting step recited by independent claim 1. Accordingly, independent claim 1 is patentable over Andreaux and Ginter. Further, independent claim 9 recites the same or similar patentable features as independent claim 1 and is therefore patentable over Andreaux and Ginter for at least the same reasons. Dependent claims are patentable over Andreaux and Ginter for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 3, 5, 7, and 12

Claims 3, 5, 7, and 12 were rejected under 35 U.S.C. § 103 as being unpatentable over Andreaux in view of Ginter and further in view of U.S. Patent Application Publication No. 2002/0048367 (“Maillard”). To the extent that this rejection applies to the pending claims, the rejection is respectfully traversed.

As previously discussed, Andreaux and Ginter do not disclose or render obvious all the limitations of amended independent claim 1. Further, Maillard fails to provide that which Andreaux and Ginter lack. For example, Maillard does not disclose or render obvious “a counting step, in which a memory location stores a count of occurrences of decryption steps of said first key

attached to a same service.” Rather Maillard, at best, provides a counter which confirms that content is not viewed any more than a predetermined number of times. *See* Maillard: paragraph [0072]. As such, Maillard is silent as to using counter which stores the count of occurrences of decryption steps. For at least these reasons, the Applicant asserts that Maillard does disclose or render obvious that which Andreaux lacks.

In view of the above, Andreaux, Ginter, and Maillard do not disclose or otherwise provide all the limitations recited by independent claim 1. Specifically, Andreaux, Ginter, and Maillard do not disclose or render obvious the limitation of the counting step recited by independent claim 1. Accordingly, independent claim 1 is patentable over Andreaux, Ginter, and Maillard. Further, independent claim 9 recites the same or similar patentable features as independent claim 1 and is therefore patentable over Andreaux, Ginter, and Maillard for at least the same reasons. Dependent claims are patentable over Andreaux, Ginter, and Maillard for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 4 and 8

Claims 4 and 8 were rejected under 35 U.S.C. § 103 as being unpatentable over Andreaux in view of Ginter and further in view of European Patent No. 1263230 A1 (“Cutino”). To the extent that this rejection applies to the pending claims, the rejection is respectfully traversed.

As previously discussed, Andreaux and Ginter do not disclose or render obvious all the limitations of amended independent claim 1. Further, Cutino fails to provide that which Andreaux and Ginter lack. For example, Cutino does not disclose or render obvious a counting step such that a memory location stores a count of occurrences of decryption steps. Rather, Cutino, at best,

provides a smart card with a loaded monetary value which can be used to make purchases via communications over cable or Internet. *See* Cutino: paragraph [0015]. Because a counter that tracks a monetary value is not the same as a counter which tracks the occurrences of decryption steps, the Applicant asserts that Cutino does disclose or render obvious that which Andreaux lacks.

In view of the above, Andreaux, Ginter, and Cutino do not disclose or otherwise provide all the limitations recited by independent claim 1. Specifically, Andreaux, Ginter, and Cutino do not disclose or render obvious the limitation of the counting step recited by independent claim 1. Accordingly, independent claim 1 is patentable over Andreaux, Ginter, and Cutino. Further, dependent claims are patentable over Andreaux, Ginter, and Cutino for at least the same reasons as provided with respect to independent claim 1. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 11

Claim 11 was rejected under 35 U.S.C. § 103 as being unpatentable over Andreaux in view of Ginter, Cutino, and Maillard. To the extent that this rejection applies to the pending claim 11, the rejection is respectfully traversed.

As previously discussed, Andreaux, Ginter, Cutino, and Maillard do not disclose or otherwise provide all the limitations recited by independent claim 1. Specifically, Andreaux, Ginter, Cutino, and Maillard do not disclose or render obvious the limitation of the counting step recited by independent claim 1. Accordingly, independent claim 1 is patentable over Andreaux, Ginter, Cutino, and Maillard. Further, independent claim 9 recites the same or similar patentable features as independent claim 1 and is therefore patentable over Andreaux, Ginter, Cutino, and

Maillard for at least the same reasons. Dependent claim 11 is patentable over Andreux, Ginter, Cutino, and Maillard for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

New Claims

Claims 13-21 have been added by way of this submission and are also currently pending. Claims 13-21 depend directly from independent claim 1 and therefore include the same or similar patentable features as independent claim 1. Accordingly, Applicant respectfully asserts that claims 13-16 are patentable over the cited prior art for at least the same reasons provided with respect to independent claim 1. Further, new independent claim 17 includes the same or similar limitations of independent claim 1 and is therefore patentable over the cited prior art for at least the same reasons provided with respect to independent claim 1. New dependent claims are patentable for at least the same reasons. Accordingly, Applicant respectfully requests favorable action in the form of a Notice of Allowability for all of the new claims.

Conclusion

Applicant believes this submission is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 09669/081001).

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Respectfully submitted,

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